

Application No. 10/810,386  
Amendment dated May 19, 2005  
Reply to Office Action of February 10, 2005

### **REMARKS/ARGUMENTS**

Responsive to the Official Action mailed February 10, 2005, applicants have amended the claims of their application in an earnest effort to place this case in condition for allowance. Specifically, claims 5 and 6 have been amended, and new claims 7-10, depending from claims 5 and 6, have been added. Reconsideration is respectfully requested.

In the Action, the Examiner has set forth her Requirement for Restriction. Applicants hereby affirm their provisional election to prosecute the claims of Group II, namely claims 5 and 6. It is respectfully submitted that the claims of Groups I and II are sufficiently closely related as to permit their consideration in this single application. In the event that the Examiner maintains her Requirement, applicants respectfully reserve the right to file a divisional application directed to the non-elected claims.

In the Action, the Examiner has rejected the pending claims under 35 U.S.C. §103, with reliance upon U.S. Patent No. 6,823,548, to Murphy et al., U.S. Patent No. 6,660,503, to Kierulff, U.S. Patent Publication No. 2004/0132368, to Price et al., and commonly-owned Patent Publication No. 2004/0000042, to Rivera et al. These rejections are respectfully traversed.

Applicants hereby state, that in accordance with the provisions of 35 U.S.C. §103, that at the time their invention was made, their invention was owned by the same person or subject to the obligation of Assignment to the same person, as the referenced

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commonly-owned patent publication to Rivera et al. Accordingly, it is believed that the Examiner's rejections of claims 5 and 6 with reliance upon the commonly-owned Rivera reference can be withdrawn.

In connection with the Examiner's further rejection of claim 5 in view of the Price et al. patent publication and the Kierulff reference, applicants respectfully note that these references clearly do not teach or suggest a structurally stable flame-retardant *nonwoven fabric*, comprising a *nonwoven* first layer, and a *nonwoven* second layer. As noted by the Examiner, the Price et al. reference contemplates a fabric material which includes a stack of layers of ballistic grade *woven fabrics*. Applicants refer to paragraph [0016] of Price et al. which states:

Fabrics woven from ballistic fibers in a variety of weave styles including plain, basket, twill, satin, and other complex weaves including, but not limited to, unidirectional, quasi-unidirectional, and three-dimensional materials, alone or in combination, can be used as the woven layers. As used herein, "woven" fabrics include stitched tows and knits. A plurality of knitted layers or stitched tows may be used with the invention.

Thus, it is respectfully submitted that this reference clearly fails to teach or suggest applicants' claimed flame-retardant nonwoven fabric construct, including first and second *nonwoven layers* as specifically set forth in claim 5.

Applicants note the Examiner's further reliance upon the Kierulff reference, but it is respectfully maintained that this reference clearly fails to overcome the clear deficiencies in the teachings of the principal Price et al. patent publication.

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Accordingly, it is believed that claims 5-10 are in condition for formal allowance, and such action is respectfully solicited. Should the Examiner wish to speak with applicants' attorneys, they may be reached at the number indicated below.

The Commissioner is hereby authorized to charge any additional fees which may be required in connection with this submission to Deposit Account No. 23-0785.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage at First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on **May 19, 2005**.

  
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